

Motion to Change Venue

Venue lies at the Immigration Court where jurisdiction is vested. See 8 C.F.R. § 1003.20(a); 8 C.F.R. § 1003.14. An Immigration Judge may change venue “for good cause” upon the motion of either party. 8 C.F.R. § 1003.20(b). Good cause is determined by balancing the following factors: administrative convenience; expeditious treatment of the case; location of witnesses; cost of transporting witnesses or evidence; and factors commonly associated with the applicant’s place of residence. Matter of Rahman, 20 I&N Dec. 480, 482-83 (BIA 1992) (citing Matter of Rivera, 19 I&N Dec. 688 (BIA 1988)). The mere fact that an applicant allegedly resides in, or wishes to reside in, a particular city is insufficient cause to change venue, without a showing of other important factors associated with such residence. Rahman, 20 I&N Dec. at 484.

Once filed, the nonmoving party must be given an opportunity to respond to the motion. 8 C.F.R. § 1003.20(b). A change of venue will not be granted without identification of a fixed street address at the new location where the applicant can be reached for further hearing notification. 8 C.F.R. § 1003.20(c). A decision regarding venue is discretionary and is reviewable only for abuse of discretion. Lovell v. INS, 52 F.3d 458, 460 (2d Cir. 1995). Even if an applicant can demonstrate an abuse of discretion, remand is only appropriate if the applicant can also show that the incorrect decision caused him prejudice, i.e., denial of venue affected either the outcome or the overall fairness of the proceeding. Monter v. Gonzales, 430 F.3d 546, 559 (2d Cir. 2005) (quoting Waldron v. INS, 17 F.3d 511, 518 (2d. Cir. 1993)).